

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9611 of 2005

Between:

S. Sulthan, S/o Mohammad Usman,
Lakshmi Nagar, Palamaner, Chittoor District.

..... PETITIONER

AND

The Mandal Revenue Officer, Palamaner Mandal, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Mandamus declaring the action of the respondent in not considering the request of the petitioner for assignment and grant of house site patta in relation to an extent of Ac. 0.01 cent of land in Sy.No. 767/11 of Palamaner Village and Mandal, Chittoor District, under the petitioner's occupation and in directing the petitioner to vacate the same even before the expiry of the limitation to prefer an appeal U/s 10 of the A.P. Land Encroachment Act 1905 as illegal, arbitrary and consequently direct the respondent to consider the petitioner's request for assignment and not to dispossess the petitioner from the land.

Counsel for the Petitioner: MR.P.ROY REDDY

Counsel for the Respondent: GP FOR REVENUE

This Court at the admission stage made the following:

ORDER:

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The petitioner filed this writ petition seeking to declare the action of the respondent in not considering his request for assignment and grant of house site patta in respect of the land to an extent of Ac.0.01 cent in Survey No.767/11 of Palamaner Village and Mandal, Chittoor District, and in directing him to vacate the said land even before expiry of the limitation to prefer an appeal under Section 10 of the Andhra Pradesh Land Encroachment Act, 1905(hereinafter referred to as 'the Act') as arbitrary and illegal.

The petitioner states that he, being a landless poor person, occupied the land-in-question about three decades ago. He has constructed a residential thatched house thereon and has been living therein along with his family members. While so, the respondent passed an order dated 07-04-2005 under Section 6 of the Act directing eviction of the petitioner from the land-in-question.

It is not in dispute that before passing the said order, a show-cause notice dated 17-03-2005 was issued to the petitioner and after

considering the explanation of the petitioner, the said order of eviction dated 07-04-2005 was passed. The petitioner does not dispute the fact that against the said order, an alternative remedy of appeal is available under Section 10 of the Act, but his grievance is that even before the expiry of the limitation to prefer an appeal, the respondent is taking steps to implement the order of eviction dated 07-04-2005. Hence, this Writ Petition.

Having heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondent and having regard to the facts and circumstances of the case, without expressing any opinion on merits, I deem it appropriate to dispose of the writ petition, granting leave and liberty to the petitioner to prefer the statutory appeal. It is open to him to file an application for stay before the appellate authority. However, the order of eviction shall not be given effect to for a period of eight weeks from today. No costs.

(G. ROHINI, J)

Date: 27-04-2005

ghn

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To

1 The Mandal Revenue Officer, Palamaner Mandal, Chittoor District.

2 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad.
(O.U.T.)

3 Two CD copies.

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9611 OF 2005

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OPERATIVE PORTION (BY WIRE):

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The writ petition is accordingly disposed of granting leave and liberty to the petitioner to prefer the statutory appeal. It is open to him to file an application for stay before the appellate authority. However, the order of eviction shall not be given effect to for a period of eight weeks from today. No costs.

(G.ROHINI, J)

Date: 27-04-2005

Note:

1. Issue wire at party's costs.
2. Please send the bundle to the Court Masters Section after dispatch of the

wire order.

B/o

ghn